IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3681 of 1998
To
SPECIAL CIVIL APPLICATION No. 3683 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Petitioner(s)

Versus

SAVAJIBHAI MAGUSBHAI - Respondent(s)

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Appearance :
MR KL PANDYA AGP for Petitioner No(s).: 1,2.
RULE SERVED for Respondent No(s).: 1.
MR DA SURANI for Respondent No(s).: 1.
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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

1.0 The petitioner State has challenged the award dated 06.06.1997 passed by the Labour Court, Surendranagar, in Recovery Application No.73/1993, 75/1993 & 74/1993, whereby the said references were allowed.

2.0 The brief facts of the case are that on 02.03.1993 the respondents herein filed the aforesaid recovery applications before the Labour Court claiming benefits as per the provisions contained in the Government Resolution dated 17.10.1988 issued by the R & B Department. The Forest Department of the petitioner State issued letter dated 31.05.1993 stating that the labourers employed in the Forest Department are not covered under the said G.R. However, the Labour Court, after hearing the parties, ordered that the amount stated in the applications is recoverable by the respondents from the petitioner and hence, were also entitled to the same with 12 % interest per annum till realization. Hence, these petitions.

3.0 Mr.K.L. Pandya learned A.G.P has contended that the Forest Department of the petitioner State cannot be termed to be an “industry” in view of the Full Bench decision of this Court in the case of Gujarat Forest Producers, Gatherers & Forest Workers Union v. State of Gujarat **reported in** 2004(2) G.L.R. pg.1488, wherein it has been held that having regard to the subjects allotted to it under the Rules of Business, the entire Department cannot be termed as an “industry” and that an activity or undertaking of the Department can be categorized as

"industry" if it satisfies the triple test formulated in the Bangalore Water Supply case reported in A.I.R. 1978 S.C. 548 and does not fall within the exceptions culled out therein. He has, therefore, submitted that the respondents workmen cannot be said to be entitled for the benefits under the said G.R. Dated 17.10.1988.

4.0 I have heard learned counsel for the parties and perused the documents placed on record. The contention raised by Mr. Pandya is required to be accepted in view of the Full Bench decision of this Court referred to herein above. Therefore, the respondents workmen cannot be said to be entitled for the benefits under the said G.R. Hence, the impugned award of the Labour Court is required to be quashed and set aside.

5.0 In the result, these petitions are allowed. The impugned award dated 06.06.1997 passed by the Labour Court, Surendranagar, in Recovery Application No.73/1993, 75/1993 & 74/1993 is quashed and set aside. Rule is made absolute accordingly with no order as to costs.

(K. S. JHAVERI, J.)

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